

WAR PAY AND ALLOWANCES ACT OF 1942  
Act Mar. 7, 1942, C. 166, 56 Stat. 143

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Sec.

1001. Definitions

For the purpose of this Act---

(a) the term "person" means (1) commissioned officer, warrant officer, enlisted person (including persons selected under the Selective Training and Service Act, as amended [sections 301-318 of this Appendix]), member of the Army or Navy Nurse Corps (female), wherever serving; (2) commissioned officer of the Coast and Geodetic Survey or the Public Health Service; and (3) civilian officers and employees of departments during such time as they may be assigned for duty or serving outside the continental limits of the United States or in Alaska, exclusive of part-time or intermittent employees or native labor casually hired on an hourly or per diem basis;

(b) the term "active Service" means active service in the Army, Navy, Marine Corps, and Coast Guard of the United States, including active Federal service performed by personnel of the retired and reserve components of these forces, the Coast and Geodetic Survey, the Public Health Service, and active Federal service performed by the civilian officers and employees defined in paragraph (a) (3) above;

(c) the term "dependent" as used in this Act [sections 1001-1017 of this Appendix] includes a lawful wife, unmarried child under twenty-one years of

age. It includes also a dependent mother, father, or unmarried dependent stepchild or adopted child under twenty-one years of age, or such dependent as has been designated in official records, or an individual determined to be dependent by the head of the department concerned, or subordinate designated by him;

(d) the term "department", including such term when used in the amendment made by section 16 [section 1016 of this Appendix], means any executive department, independent establishment, or agency (including corporations) in the executive branch of the Federal Government. Mar. 7, 1942, c. 166, § 1, 56 Stat. 143, as amended July 1, 1944, c. 371, § 1, 58 Stat. 679.

#### Historical Note

Subsec. (a) (3) amended by Act July 1, 1944, cited to text, which added ", exclusive of part-time or intermittent employees or native labor casually hired on an hourly or per diem basis;".

Subsec. (c) amended by Act July 1, 1944, cited to text, which defined dependent in precise terms, instead of referring to "U.S.Code, title 37 sections 8 and 8(a)".

Effective date of 1944 Amendments.  
Section 8 of Act July 1, 1944, cited to text, provided: "The foregoing amendments to such Act [sections 1001-1017 of this Appendix] shall be effective in all

respects as provided in section 15 of the Act of March 7, 1942 (56 Stat. 147), as amended (56 Stat. 1093; 50 App., U.S.C., Supp. III, 1015), and payments under the retroactive provisions of such amendments are authorized to be paid from appropriations currently available."

Short title. Section 7 of Act July 1, 1944, cited to text, amended Act Mar. 7, 1942, cited to text, by adding a new section thereto to read: "Sec. 19. This Act [Sections 1001-1017 of this Appendix] may be cited as the 'Missing Persons Act'."

§ 1002. Missing, interned, or captive persons; continuance of pay and allowances

Any person who is in active service and who is officially determined to be absent in a status of missing, missing in action, interned in a neutral country, captured by an enemy, beleaguered or besieged shall, for the period he is officially carried or determined to be in any such status, be entitled to receive or to have credited to his account the same pay and allowances to which he was entitled at the beginning of such period of absence or may become entitled thereafter, and entitlement to pay and allowances shall terminate upon the date of receipt by the department concerned of evidence that the person is dead or upon the date of death prescribed or determined under provisions of section 5 of this Act [section 1005 of this Appendix]: Provided, That such entitlement to pay and allowances shall not terminate upon expiration of term of service during absence and in case of death during absence shall not terminate earlier than the dates herein prescribed: Provided further, That there shall be no entitlement to pay and allowances for any period during which such person may be officially determined absent from his post of duty without authority and he shall be indebted to the Government for any payments from amounts credited to his account for such period. Mar. 7, 1942, c. 166, § 2, 56 Stat. 144, as amended July 1, 1944, c. 371, § 2, 58 Stat. 679.

Historical Note

Act July 1, 1944, cited to text, amended section generally, providing, among other things, the termination date of pay and allowances.

Appropriations. Act June 23, 1942, c. 444, § 1, 56 Stat. 389, authorized use of

funds appropriated by Sixth Supplemental National Defense Appropriation Act 1942, Act Apr. 28, 1942, c. 247, 56 Stat. 233, under heading "Naval Emergency Fund", for payments to persons subject to this section.

§ 1003. Same; continuance or establishment by department head of allotments for dependents and insurance

For the period that any person is entitled under section 2 of this Act section 1002 of this Appendix to receive or be credited with pay and allowances, such allotments as may have been executed prior to the beginning of his absence, including allotments for the purchase of United States savings bonds, may be continued, except as otherwise herein provided, and notwithstanding any expiration of a period for which an allotment had been executed. In the absence of an allotment or when an allotment is insufficient for any purpose authorized by the head of the department concerned, such new allotments or increases as circumstances are deemed to warrant may be authorized by the head of the department concerned, or such subordinate as he may designate, payable during any period of the absent person's entitlement to pay and allowances under section 2 of this Act: Provided, That the aggregate of all allotments in effect, from pay and allowances of an absent person, does not exceed the amount of pay and allowances such absent person would be permitted to allot under regulations of the department concerned: Provided further, That any premium paid by the Government on insurance issued on the life of a person, which is unearned by reason of being for a period subsequent to the date of death of such person, shall revert to the appropriation of the department concerned. Mar. 7, 1942, c. 166, § 1, 56 Stat. 1092; July 1, 1944, c. 371, § 3, 58 Stat. 680.

Historical Note

Act July 1, 1944, cited to text, amended section generally.

Act Dec. 24, 1942, cited to text, amended provisos.

Effective date. Section 2 of Act Dec.

24, 1942, cited to text, provided: "This Act Act Dec. 24, 1942 shall be effective in all respects as provided in section 15 of the Act of March 7, 1942 (Public Law 490, Seventy-seventh Congress) section 1015 of this Appendix".

§ 1004. Same; continuance, suspension, or resumption of pay and allowances by department head; limitation on duration of allotments

When circumstances are deemed to justify such action in the interests of a person entitled to receive or be credited with pay and allowances under section 2 of this Act section 1002 of this Appendix, in the interests of the dependents

of such person, or in the interests of the Government, the head of the department concerned, or such subordinates as he may designate, may direct the initiation, continuance, discontinuance, increase, decrease, suspension, or resumption of payments of allotments from the pay and allowances of such person, subject to the provisions of section 6 of this Act [section 1006 of this Appendix]. Mar. 7, 1942, c. 166, § 4, 56 Stat. 144, as amended Dec. 24, 1942, c. 828, § 1, 56 Stat. 1092; July 1, 1944, c. 371, § 4, 58 Stat. 680.

#### Historical Note

Act July 1, 1944, cited to text, amended section generally, providing, among other changes, that the head of the department or any designated subordinates may initiate, discontinue, increase or decrease payments.

Act Dec. 24, 1942, cited to text, amended second sentence.

Effective date of amendment by Act Dec. 24, 1942, cited to text, see note under section 1003 of this Appendix.

§ 1005. Same; departmental review; continuance of missing status or finding of death after year's absence; date of termination of pay and allowances

When the twelve months' period from date of commencement of absence is about to expire in any case of a person missing or missing in action and no official report of death or of being a prisoner or of being interned has been received, the head of the department concerned shall cause a full review of the case to be made. Following such review and when the twelve months' absence shall have expired, or following any subsequent review of the case which shall be made whenever warranted by information received or other circumstances, the head of the department concerned is authorized to direct the continuance of the person's missing status, if the person may reasonably be presumed to be living, or is authorized to make a finding of death. When a finding of death is made it shall include the date upon which death shall be presumed to have occurred for the purposes of termination of crediting pay and allowances, settlements of accounts, and payments of death gratuities and such date shall be the day following the day of expiration of an absence of twelve months, or in cases in which the missing status shall have been continued as hereinbefore authorized, a day to be determined by the head of the department. Mar. 7, 1942, c. 166, § 5, 56 Stat. 145, as amended Dec. 24, 1942, c. 828, § 1, 56 Stat. 1092.

#### Historical Note

Act Dec. 24, 1942, cited to text, amended section in its entirety.

Effective date of amendment by Act Dec. 24, 1942, cited to text see note under section 1003 of this Appendix.

§ 1006. Same; payment of allotments in case of captured or interned persons until death or return to jurisdiction; pay and allowances and allotments of persons continued in missing status

When it is officially reported by the head of the department concerned that a person missing under the conditions specified in section 2 of this Act [section

1002 of this Appendix/ is alive and in the hands of an enemy or is interned in a neutral country, the payments authorized by section 3 of this Act [section 1003 of this Appendix/ are, subject to the provisions of section 2 of this Act [section 1002 of this Appendix/, authorized to be made for a period not to extend beyond the date of the receipt by the head of the department concerned of evidence that the missing person is dead or has returned to the controllable jurisdiction of the department concerned. When a person missing or missing in action is continued in a missing status under section 5 of this Act [section 1005 of this Appendix/, such person shall continue to be entitled to have pay and allowances credited as provided in section 2 of this Act [section 1002 of this Appendix/ and payments of allotments, as provided in section 3 of this Act [section 1003 of this Appendix/, are authorized to be continued, increased, or initiated. Mar. 7, 1942, c. 166, § 6, 56 Stat. 145, as amended Dec. 24, 1942, c. 828, § 1, 56 Stat. 1092.

#### Historical Note

Act Dec. 24, 1942, cited to text, added last sentence.

Effective date of amendment by Act Dec. 24, 1942, cited to text, see note under section 1003 of this Appendix.

§ 1007. Authority of department head to create new allotments and to continue or change amounts of old allotments

The head of the department concerned is hereby authorized to direct the payment of new allotments from the pay of persons in active service (other than persons entitled under section 2 or section 14 of this Act [section 1002 or 1014 of this Appendix/ to receive pay and allowances) to increase or decrease the amount of any allotment heretofore or hereafter made by such persons and to continue payment of any allotments of such person which may have expired in November 1941 and any month subsequent thereto, with or without the consent of such person, subject in all cases to termination by specific request of such persons, whenever in the judgment of the head of the department such action is considered essential for the well-being and protection of dependents of persons in active service. Mar. 7, 1942, c. 166, § 7, 56 Stat. 145.

§ 1008. Penalty for fraudulent receipt of payments

Whoever shall obtain or receive any money, check, or allotment under this Act, without being entitled thereto, with intent to defraud shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than one year, or both. Mar. 7, 1942, c. 166, § 8, 56 Stat. 145.

§ 1009. Determinations by department heads or designees; conclusiveness relative to status of personnel, payments, or death

The head of the department concerned, or such subordinate as he may designate, shall have authority to make all determinations necessary in the administration of this Act [sections 1001-1017 of this Appendix/, and for the purposes of this Act [sections 1001-1017 of this Appendix/ determinations so made shall be conclu-

sive as to death or finding of death, as to any other status dealt with by this Act [sections 1001-1017 of this Appendix], and as to any essential date including that upon which evidence or information is received in such department or by the head thereof. The determination of the head of the department concerned, or of such subordinate as he may designate, shall be conclusive as to whether information received concerning any person is to be construed and acted upon as an official report of death. When any information deemed to establish conclusively the death of any person is received in the department concerned, action shall be taken thereon as an official report of death, notwithstanding any prior action relating to death or other status of such person. If the twelve months' absence prescribed in section 5 of this Act [section 1005 of this Appendix] has expired, a finding of death shall be made whenever information received, or a lapse of time without information, shall be deemed to establish a reasonable presumption that any person in a missing or other status is no longer alive. Payment or settlement of an account made pursuant to a report, determination, or finding of death shall not be recovered or reopened by reason of a subsequent report or determination which fixes a date of death except that an account shall be reopened and settled upon the basis of any date of death so fixed which is later than that used as a basis for prior settlement. Determinations are authorized to be made by the head of the department concerned, or by such subordinate as he may designate, of entitlement of any person, under provisions of the Act, to pay and allowances, including credits and charges in his account, and all such determinations shall be conclusive: Provided, That no such account shall be charged or debited with any amount that any person in the lands\* of an enemy may receive or be entitled to receive from, or have placed to his credit by, such enemy as pay, wages, allowances, or other compensation: Provided further, That where the account of any person has been charged or debited with allotments paid pursuant to this Act [sections 1001-1017 of this Appendix] any amount so charged or debited shall be recredited to such person's account in any case in which it is determined by the head of the department concerned, or such subordinate as he may designate, that payment of such amount was induced by fraud or misrepresentation to which such person was not a party. When circumstances warrant reconsideration of any determination authorized to be made by this Act [sections 1001-1017 of this Appendix] the head of the department concerned, or such subordinate as he may designate, may change or modify a previous determination. Excepting allotments for unearned insurance premiums, any allotments paid from pay and allowances of any person for the period of the person's entitlement under the provisions of section 2 of this Act [section 1002 of this Appendix] to receive or have credited such pay and allowances shall not be subject to collection from the allottee as over-payments when payment thereof has been occasioned by delay in receipt of evidence of death, and any allotment payments for periods subsequent to the termination, under this Act [sections 1001-1017 of this Appendix] or otherwise, of entitlement to pay and allowances, the payment of which has been occasioned by delay in receipt of evidence of death, shall not be subject to collection from the allottee or charged against the pay of the deceased person. The head of the department concerned, or such subordinate as he may designate, may waive the recovery of erroneous payments or overpayments of allotments to dependents when recovery is deemed to be against equity and good conscience. In the settlement of the accounts of any disbursing officer credit shall be allowed for any erroneous payment or overpayment made by him in carrying out the provisions of this Act [sections 1001-1017 of this Appendix], except sections 13, 16, 17, and 18 [sections 1013, 1016, 1017, 1018 of this

Appendix 7, in the absence of fraud or criminality on the part of the disbursing officer involved, and no recovery shall be made from any officer or employee authorizing any payment under such provisions in the absence of fraud or criminality on his part. Mar. 7, 1942, c. 166, § 9, 56 Stat. 145, as amended July 1, 1944, c. 371, § 5, 58 Stat. 680.

\*So in original. Probably should read "hands".

#### Historical Note

Act July 1, 1944, cited to text, amended section generally.

§ 1010. Same; fact of dependency; authority to determine; conclusiveness

The determination of the fact of dependency under the provisions of this Act [sections 1001-1017 of this Appendix 7], the determination of the fact of dependency for the purpose of payment of all six months' death gratuities as authorized by law, and the determination of the fact of dependency under the provisions of any and all other laws providing for the payment of pay, allowances, or other emoluments to enlisted personnel in the Army, Navy, Marine Corps, and Coast Guard of the United States where such payments are contingent upon dependency, shall be made by the head of the department concerned, or by such subordinate as he may designate, and any such determination so made shall be final and conclusive. Mar. 7, 1942, c. 166, § 10, 56 Stat. 145, as amended July 1, 1944, c. 371, § 6, 58 Stat. 681.

#### Historical Note

Act July 1, 1944, cited to text, amended section by inserting "the determination of the fact of dependency for the purpose of payment of all six months' death

gratuities as authorized by law", and substituting "personnel" for "men" following "enlisted".

§ 1011. Settlement of accounts

The head of the department concerned, or such person as he may designate, is authorized to settle the accounts of persons for whose account payments have been made pursuant to the provisions of sections 2 to 7, both inclusive, of this Act [sections 1002-1007 of this Appendix 7], and the accounts of survivors of casualties to ships, stations and military installations which result in loss or destruction of disbursing records, and such settlements shall be conclusive upon the accounting officers of the Government in effecting settlements of the accounts of disbursing officers. Mar. 7, 1942, c. 166, § 11, 56 Stat. 146.

§ 1012. Moving dependents and effects of persons dead, injured, captured, etc.; appropriations chargeable with cost

The dependents and household and personal effects of any person on active duty (without regard to pay grade) who is officially reported as injured, dead, missing as the result of military or naval operations, interned in a neutral country, or captured by the enemy, may be moved (including packing and unpacking of household effects) to the official residence of record for any such person, or, upon appli-

cation by such dependents, to such other locations as may be determined by the head of the department concerned or by such person as he may designate, by the use of either commercial or Government transportation: Provided, That the cost of such transportation, including packing and unpacking, shall be charged against appropriations currently available. Mar. 7, 1942, c. 166, § 12, 56 Stat. 146.

§ 1013. Income tax deferment for certain persons in Government service not in position to pay taxes because of service

Notwithstanding any other provision of law, in the case of any taxable year beginning after December 31, 1940, no Federal income-tax return of, or payment of any Federal income tax by --

- (a) any individual in the military or naval forces of the United States,
  - or
  - (b) any civilian officer or employee of any department
- who, at the time any such return or payment would otherwise become due, is a prisoner of war or is otherwise detained by any foreign government with which the United States is at war, or
- (c) any individual in the military or naval forces of the United States serving on sea duty or outside the continental United States at the time any such return or payment would otherwise become due, shall become due until one of the following dates, whichever is the earliest:

- (1) the fifteenth day of the third month following the month in which he ceases (except by reason of death or incompetency) to be a prisoner of war, or to be detained by any foreign government with which the United States is at war, or to be a member of the military or naval forces of the United States serving on sea duty or outside the continental United States, as the case may be, unless prior to the expiration of such fifteenth day he again is a prisoner of war, or is detained by any foreign government with which the United States is at war, or is a member of the military or naval forces of the United States serving on sea duty or outside the continental United States;

- (2) the fifteenth day of the third month following the month in which the present war with Germany, Italy, and Japan is terminated, as proclaimed by the President; or

- (3) the fifteenth day of the third month following the month in which an executor, administrator, or conservator of the estate of the taxpayer is appointed.

Such due date is prescribed subject to the power of the Commissioner of Internal Revenue to extend the time for filing such return or paying such tax, as in other cases, and to assess and collect the tax as provided in sections 146, 273, and 274 of the Internal Revenue Code [sections 146, 273, and 274 of Title 26] in cases in which such assessment or collection is jeopardized and in cases of bankruptcy or receivership. For the purpose of this section, the term "continental United States" means the States and the District of Columbia, and the terms "individual" or "member" of the military or naval forces of the United States means any person in the Army of the United States, the United States Navy, the Marine Corps, the Army or Navy Nurse Corps (female), the Coast Guard, the Coast and Geodetic Survey, or the Public Health Service. Mar. 7, 1942, c. 166, § 13, 56 Stat. 146.



Historical Note

Limitation of section under other laws.  
Section 507(b) (1) of the Revenue Act of 1942, Act Oct. 21, 1942, 4:30 p.m., E. W. T., c. 619, Title V, provided as follows:  
"The amendments made by this section adding sections 3804 and 3805 of Title 26 and section 527 of this Appendix shall not be construed to shorten any period fixed under the provisions of section 13 or 14 of the Act approved March 7,

1942 (Public Law 490--77th Congress) sections 1013 and 1014 of this Appendix, within which any act may be done, except that any action or proceeding authorized under section 3804(d) (1) of the Internal Revenue Code, as well as any other action or proceeding authorized by law in connection therewith, may be taken, begun, or prosecuted without regard to the period so fixed".

§ 1014. Application of Act to persons besieged by enemy

The provisions of this Act, applicable to persons in the hands of an enemy, shall also apply to any person beleaguered or besieged by enemy forces. Mar. 7, 1942, c. 166, § 14, 56 Stat. 147.

§ 1015. Effective date and termination of Act

This Act, except sections 13, 16, 17, and 18 sections 1013, 1016, 1017 and 1018 of this Appendix, shall be effective from September 8, 1939, and shall remain in effect until the termination of the present war with Germany, Italy, and Japan, and for twelve months thereafter, or until such earlier time as the Congress by concurrent resolution or the President by proclamation may designate. Mar. 7, 1942, c. 166, § 15, 56 Stat. 147, as amended Dec. 24, 1942, c. 828, § 1, 56 Stat. 1092.